

## § 243.6

(b) *Exclusions of categories of business from commitment based awards.* Where adequate competition is available and USTRANSCOM determines some part of the business is more appropriate for award under competitive procedures, the rate-making will not apply. Changes to areas of business will be reflected in the solicitation.

### § 243.6 Exclusions from the uniform negotiated rate.

Domestic CRAF is handled differently than international CRAF in that aircraft committed does not factor into the amount of business awarded during peacetime. If domestic CRAF is activated, carriers will be paid in accordance with pre-negotiated prices that have been determined fair and reasonable, not a uniform rate.

### § 243.7 Inapplicable provisions of law.

An airlift services contract for which the rate of payment is determined in accordance with subsection (a) of 10 U.S.C. 9511a shall not be subject to the provisions of 10 U.S.C. 2306a, or to the provisions of subsections (a) and (b) of 41 U.S.C. 1502. Specifically, contracts establishing rates for services provided by air carriers who are participants in the CRAF program are not subject to the cost or pricing data provision of the Truth in Negotiations Act (10 U.S.C. 2306a) or the Cost Accounting Standards (41 U.S.C. 1502). CRAF carriers will, however, continue to submit data in accordance with the MOU and the DOT, Form 41.

### § 243.8 Application of FAR cost principles.

In establishing fair and reasonable rate of payments for airlift service contracts in support of CRAF, USTRANSCOM, in accordance with 10 U.S.C. 9511a, procedures differ from the following provisions of FAR Part 31 and DFARS Part 231, as supplemented:

FAR 31.202, Direct Costs  
FAR 31.203, Indirect Costs  
FAR 31.205-6, Compensation for Personal Services, subparagraphs (g), (j), and (k)  
FAR 31.205-10, Cost of Money  
FAR 31.205-11, Depreciation  
FAR 31.205-18, Independent Research and Development and Bid and Proposal Costs  
FAR 31.205-19, Insurance and Indemnification

## 32 CFR Ch. I (7-1-16 Edition)

FAR 31.205-26, Material Costs  
FAR 31.205-40, Special Tooling and Special Test Equipment Costs  
FAR 31.205-41, Taxes  
DFARS 231.205-18, Independent research and development and bid and proposal costs

### § 243.9 Carrier site visits.

USTRANSCOM may participate in carrier site visits, as required to determine the reasonableness or verification of cost and pricing data.

### § 243.10 Disputes.

Carriers should first address concerns to the ratemaking team for resolution. Ratemaking issues that are not resolved to the carrier's satisfaction through discussions with the rate-making team may be directed to the USTRANSCOM contracting officer.

### § 243.11 Appeals of USTRANSCOM Contracting Officer Decisions regarding rates.

If resolution of ratemaking issues cannot be made by the USTRANSCOM contracting officer, concerned parties shall contact the USTRANSCOM Ombudsman appointed to hear and facilitate the resolution of such concerns. In the event a ratemaking issue is not resolved through the ombudsman process, the carrier may request a final agency decision from the Director of Acquisition, USTRANSCOM.

### § 243.12 Required records retention.

The air carrier is required to retain copies of data submitted to support rate determination for a period identified in Subpart 4.7 of the Federal Acquisition Regulation, Contractor Records Retention.

## PART 245—PLAN FOR THE EMERGENCY SECURITY CONTROL OF AIR TRAFFIC (ESCAT)

Sec.

### Subpart A—General

245.1 Purpose.  
245.2 Applicability.  
245.3 Responsibilities.

### Subpart B—Explanation of Terms, Acronyms and Abbreviations

245.5 Terms.